



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

March 2, 2006

SUBJECT: **2006-0084 - EMC Scientific Properties** [Applicant/
Owner]: Application for related proposals on a 1.3-acre site
located at **1290 Hammerwood Ave** (near Highway 237) in
an M-S (Industrial & Service) Zoning District.

Motion **Use Permit** to allow 4 industrial condominium units,

Motion **Parcel Map** to subdivide one lot into four condominium
units and one common lot.

REPORT IN BRIEF

Existing Site One existing industrial building
Conditions

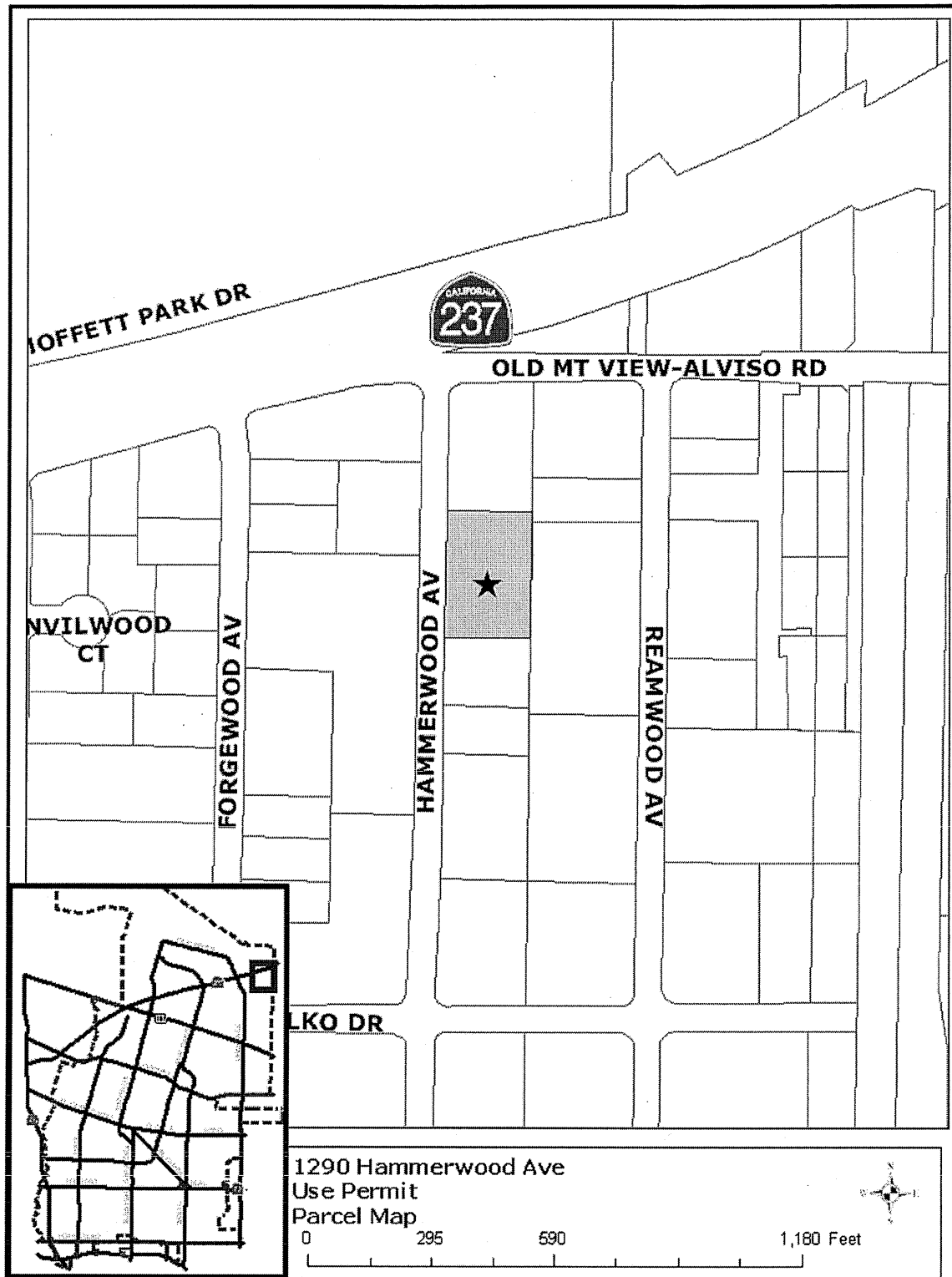
Surrounding Land Uses

North	Industrial Buildings
South	Industrial Buildings
East	Industrial Buildings
West	Industrial Buildings

Issues Landscaping
 Accessible Parking
 Enclosed Area

Environmental A Class 1 Categorical Exemption relieves this project
Status from California Environmental Quality Act provisions
 and City Guidelines.

Staff Approve with Conditions
Recommendation



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial	Same	Industrial
Zoning District	MS	Same	MS
Lot Size (s.f.)	57,300	Same	22,500 min.
Gross Floor Area (s.f.)	19,900	Same	20,055 max.
Lot Coverage (%)	34.7%	Same	35% max.
Floor Area Ratio (FAR)	34.7%	Same	50% max.
No. Buildings On-Site	1	Same	---
Building Height (ft.)	16	Same	75 max.
No. of Stories	1	Same	8 max.
Landscaping (sq. ft.)			
★ • Total Landscaping	5,600	Same	11,460 min.
• Frontage (ft.)	25 ft.	Same	15 ft.
★ • % Based on Parking Lot	18%	Same	20%
★ • Parking Lot Area Shading (%)	Approx. 15%	Same	50% min. in 15 years
Parking			
• Total Spaces	88	Same	40 - 80 min.
• Standard Spaces	88	Same	40 min.
• Compact Spaces/ % of Total	0	Same	44 (50%) max.
★ • Accessible Spaces	0	Same	4 min.
★ • Aisle Width (ft.)	24 ft.	Same	26 ft. min.
• Bicycle Parking	0	Same	2 Class I (lockers) + 2 Class II (racks) min.

★ Starred item indicates deviation from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The subject site consists of one parcel with a one-story building surrounded by parking. The applicant proposes subdividing the existing buildings into four industrial condominium units on one common lot. No other improvements have been proposed.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
1977-0589	Variance for Parking (88 spaces instead of 106 required for deli)	Planning Commission/ Approved	8/22/77
1977-0368	Deli in Industrial area	Planning Commission/ Approved	8/22/77

The building is currently vacant. The applicant seeks to subdivide the property to allow for the sale of the individual units. The applicant filed for a similar four-unit subdivision in 2003, but later cancelled the application.

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemption includes no change to the existing building and no proposed change to the use.

Parcel Map

Description of Parcel Map: The Parcel Map would subdivide the existing building into four ownership "air-space" units located on one common lot.

Site Layout: The parcel has street frontage along Hammerwood Avenue, which currently has no public sidewalk. The site is developed with a one-story industrial building, located in the center of the site and surrounded by parking. The majority of the rear of the lot is enclosed with a high chain-link fence. There are trees located along the perimeter of the site, including street trees along Hammerwood Avenue. There is a landscaped strip along the front of the site which includes a bermed area, a narrow (4.5 foot) buffer along the sides of

the site for the trees, and tree wells along the rear of the property. There is no other landscaping on the site.

There is currently no proposed change to the structure other than minor upgrades to bring it into compliance with current Building Code.

The drive aisle is only 24 feet, which is less than the 26 feet required by Code; however, the it is an existing site with no proposed changes to the structural layout.

Uses: The site is currently vacant. The proposed subdivision would allow for individual ownership of up to 4 different tenants. No uses other than the standard Industrial uses (R&D, General Industrial or corporation office) have been proposed as part of this application. The available parking does not limit the standard allowable uses on the site.

Parking: The City Code parking requirements allows for a range between 1 space per 250 sq. ft. and 1 space per 500 sq. ft. By that measure, the site would need between 40 to 80 parking spaces to meet the parking requirements. The site exceeds even the most stringent parking standard by 8 spaces. The excess parking area may be used to meet the landscaping deficit.

Much of the parking on the site is currently enclosed with the chain link fence; however, the applicant has verified the intent to remove the existing fence as part of this application.

The site currently provides no accessible parking spaces, which are required by Code.

Circulation: The existing chain link fence located in the rear of the property impedes the circulation on the site. According to the applicant, they would be willing to remove the side that block traffic flow and retain only the fence located along the perimeter of the site.

Landscaping: The existing landscaping is less than half of the amount required by the City Code. In condominium conversions of already developed sites, such as this application, it is not uncommon for there to be a conflict between meeting the Code requirements for landscaping and for parking. However, the site is notably over-parked, which allows for the opportunity to convert some existing parking into landscaping.

The site currently has five existing City street trees along the frontage in the Public right-of-way; there are nine trees located along the sides, and six trees along the rear of the site (which appear to be in the boundary between the

subject site and neighboring site). While the perimeter trees on the site are not protected trees, they contribute to the parking lot shading.

The Sunnyvale Municipal Code requires 50% shading (at 15 years of growth) for parking lots. The site currently provides approximately 15% parking shading. The project should meet compliance with current Code requirements on the installation and maintenance of additional trees to provide the required shading to the extent possible. This includes planting additional trees along the perimeter of the property (See Attachment B, Condition of Approval 4.B and 4.C).

Site Improvements: There is currently no solid waste enclosure located on the site. A solid waste enclosure, for both waste and recycling, is required by Code.

The street frontage along Hammerwood Avenue currently has no sidewalk. This project includes the installation of a standard public access sidewalk along the full length of Hammerwood Avenue. The sidewalk shall be installed in such a manner as not to cause detrimental impact to the roots of the existing trees, such as a meandering sidewalk.

Given that sub-dividing property rights tends to decrease the likelihood of redeveloping the site for a longer period of time, upgrades to the façade may increase the appearance and the value of the property. Such upgrades include painting and/or minor architectural enhancements.

Undergrounding: Staff did not observe any overhead utility lines on the property or along the frontage; however, any overhead lines that may be existing would need to be undergrounded.

Owners' Association: As a condominium project, the project is required to have an association to manage the building, landscaping, parking and other common area amenities and utilities. The minimum requirements for this association are described in Attachment B, Condition of Approval 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected. Certain Public Works development fees may be required, such as sanitary sewer connection fees.

Public Contact

No public input was received on this application. Staff received calls for an owner and tenant on neighboring properties to clarify whether the proposed

condominiums are residential or industrial, and expressed no concern with the retaining of the currently approved uses.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 12 notices mailed to adjacent property owners and business listed for the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Conclusion

Discussion: A general concern with condominium conversions is that allowing for the conversion would remove the opportunity to redevelop the site with a newer building which conforms to current zoning requirements and Building Code requirements. However, there is no established policy for the area where the subject site is located to encourage the private redevelopment of Class C buildings to Class A buildings.

The primary concern with the site is the deficit in landscaping. Given that the parking exceeds Code requirements, some parking may be converted to meet the landscaping requirements. The optimal location for this additional landscaping is at intervals along the parking area to allow for the planting of trees, which provide the benefits of a visual barrier, noise reduction, air quality improvements, aesthetic site enhancements, and parking lot shading. Existing trees should be retained.

A solid waste and recycling enclosure is necessary to meet Code requirements. Staff recommends removing a total of 18 parking spaces to meet requirements for both the solid waste enclosure and the additional landscaping.

Staff recommends removal of the existing chain link fence from the parking drive aisle areas. Staff has no major concerns with retaining the fence along the perimeter of the site as long as it is painted an appropriate color to match the surrounding structures.

The City requires standard upgrades as part of such condominium conversions to meet fire and building Code requirements, including upgrading the driveways to current City standards, installing a sidewalk along the street frontage, and installing bike parking (per VTA guidelines).

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Use Permit. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

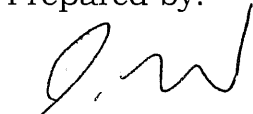
Alternatives

1. Approve the Use Permit and Parcel Map with attached conditions.
2. Approve the Use Permit and Parcel Map with modified conditions.
3. Do not Approve the Use Permit and Parcel Map.

Recommendation


Alternative 1.

Prepared by:



Jamie McLeod,
Project Planner

Reviewed by:



Gerri Caruso
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans

Recommended Findings - Parcel Map

Approval of a Parcel Map requires a finding to be made and any of eight other findings not to be made.

A. If the following finding can be made, the Administrative Hearing Officer should recommend approval of the Parcel Map.

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan and any applicable specific plan.

B. However, if any of the following findings can be made, the Administrative Hearing Officer should recommend denial of the Parcel Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Staff was able to make the first finding (A.1) and was not able to make any of the second set of findings (B), and recommends approval of the Parcel Map.

The City places a strong value on the opportunity for ownership units and the Community Development strategy has encouraged this type of development. This type of subdivision has been supported elsewhere in the City.

Recommended Conditions of Approval – Parcel Map

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- B. The Parcel Map shall expire twenty-four months from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- C. Obtain Building and Fire permits for requested modifications, and meet all requirements, including those listed in the Project Review Committee letter.
- D. Pay all applicable Public Works development fees associated with the project, including but not limited to, utility frontage and/or connection fees and off-site improvement plan check and inspection fees, prior to map recordation.
- E. Obtain an encroachment permit from the Public Works Department/Engineering for all improvement in the public right-of-way.
- F. New Radio Read meters will be required. Separate Landscape and Domestic service meters
- G. The developer is required to pay for all changes or modifications to existing city utilities, streets and other public utilities within or adjacent to the project site, including but not limited to utility facilities/conduits/vaults relocation due to grade change in the park strip area, caused by the development
- H. Install new 5 foot wide sidewalk along Hammerwood Avenue frontage, taking into account the impact on existing mature trees. (A dedicated sidewalk easement may be required to install sidewalk between street trees and the building.) Sidewalks are to be constructed in

conformance with City tree protection requirements to prevent or minimize impact on existing trees.

- I. Make minor upgrades to façade, such as paint and/or minor architectural enhancements. Director of Community Development to approval final upgrade plans.
- J. Install a solid waste enclosure, for both waste and recycling. Enclosures dimensions and materials to be approved by the Director of Public Works. Enclosure design to be approved by the Director of Community Development.

2. EXTERIOR EQUIPMENT

- A. The existing chain link fence located in the rear of the property, impeding circulation on the site, shall be removed prior to finalling of the Building Permits.
- B. Any modification or expansion of unenclosed uses shall require approval from the Director of Community Development.

3. FENCES

- A. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a "vision triangle" (For definition, refer to Vision Triangle brochure or SMC 19.12.040(16), SMC 19.12.050 (12))

4. LANDSCAPING

- A. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- B. Provide and maintain trees at minimum 30 feet intervals along side and rear property lines, except where mature trees are located immediately adjoining on neighboring property.
- C. Provide and maintain trees throughout the lot to target achieving the goal of at least fifty percent of the parking area to be shaded within fifteen years after the planting of the trees (SMC 19.38.070(d)(2))
- D. Provide protection measures for all existing trees and tree roots during any construction or renovation, including the installation of the sidewalk along Hammerwood Avenue.
- E. Landscape and irrigation plans shall be submitted to the Director of Community Development subject to approval by the Director of Community Development prior to issuance of a Building Permit. Landscaping and irrigation shall be installed prior to occupancy.

5. BICYCLE PARKING

- A. Provide 2 Class I and 2 Class II bicycle parking spaces per VTA Bicycle Technical Guidelines as approved by the Director of Community Development.

6. ROOF/ROOF SCREENS

- A. Roof vents, pipes and flues shall be combined and/or collected together on slopes of roof or behind parapets out of public view to meet code requirements as noted in Sunnyvale Municipal Code Section 19.38.020.

7. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. The developer/Owner shall create an Owner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
- C. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- D. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- E. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to an owners association, following sale of at least 75% of the units, whichever comes first.
- F. The CC&Rs shall contain the following language:
 - 1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City

will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.

2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.

7. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."

8. PARCEL MAP CONDITIONS

- A. Comply with all applicable code requirements as noted in the Standard Development Requirements.

9. SUBDIVISIONS

- A. Individual buildings shall not be sold separately, or if the sale of any building shall be anticipated, all requirements of the Subdivision Ordinance in effect at the time of the sale shall be complied with in full prior to such sale (State Subdivision Map Act).
- B. Remove all debris, structures, area light poles, and paving from the site prior to recordation of a final map.

HARTER, BOODR, SUMMALL, CA

ELEVATIONS

NOTES

[illegible]

Abstract

11/04/2004

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THE

See Also: *See Also*

3-11-2014

THE

Comments:

1

2/12 PM 2/12

1

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NAME

10

CONCLUSION

1

ATTACHMENT

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NORTH ELEVATION